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ABSTRACTS OF RECENT GEORGIA DECISIONS.*

Accord and Satisfaction.—Agreements to settle an existing debt by paying a part, are void for want of consideration, unless some advantage or benefit accrues to the creditor, or detriment to the debtor, from the agreement, other than what springs out of the original contract. *Molyneaux et al.* vs. *Collier*, 13 *Geo. R.* 407.

Where such agreements are *executory*, they do not avail to discharge the debt until they are executed, unless it is clear that the *promise*, and not the *performance*, is agreed to be the satisfaction. *Ibid.*

An agreement to accept one-third part of a debt, in discharge of an insolvent debtor, from the yearly proceeds of his personal labor: *Held*, to be on good consideration and valid. *Ibid.*

An agreement to accept one-third part of a judgment against *three*, from *one* who is insolvent, in the yearly proceeds of his labor, in discharge of his liability: *Held*, to be void for want of consideration, unless at the time of the agreement the other two defendants were also insolvent. *Ibid.*

Affray.—Where two persons are indicted for an affray, they have one common interest in making their defence; the successful defence of one enures to the benefit of the other. Both must be convicted or acquitted. *Hawkins* vs. *The State*, 13 *Geo. R.* 322.

Words alone, will not constitute the offence of an affray; but words accompanied by acts, such as drawing knives and attempting to use them in a public street of a city, the using of which is prevented by the bystanders, is calculated to excite the terror of peaceable citizens and disturb the public tranquility, and will constitute an affray. *Ibid.*

Attorneys at Law.—An attorney is not a competent witness to testify for or against his client, as to any matter or thing, the knowledge of which he derived from his client, or acquired during the existence of the relation of client and attorney, in the suit in which he is engaged. *Riley* vs. *Johnson*, 260.

Bank Bills.—In an action against the maker of a promissory note, or the acceptor of a bill of exchange, or against a bank, upon a bank note, all payable generally on demand, it is not necessary to aver and prove a demand—the suit itself being a sufficient demand. *Douyherty* vs. *Western Bank of Rome*, 287.

In case of a bank note, payable on demand at a particular time and

* We are indebted to the learned Reporter for the early sheets of this volume.—Eds. Am. L. Reg.

place: *Held*, that demand at the place is necessary to a suit against the bank, at the time designated or afterwards, and must be averred and proven. The place, however, must be stated with distinctness and precision. A bank note payable *at Rome* is payable generally. *Ibid.*

The Statute of Limitations does not apply to bank bills. They are, by consent of mankind and course of business, considered as money. *Ibid.*

Constitutional Law.—Registry Acts, having a retrospective operation, have never been considered as falling within the constitutional inhibition against *ex post facto* laws, or laws impairing the obligation of contracts: provided, they allow a reasonable time after their passage to record existing or antecedent deeds. *Tucker* vs. *Harris*, 1.

Where a demand is made by the Executive officer of one State, for a fugitive from justice, who has taken refuge in another State, under the provisions of the Constitution and Laws of the United States, and a copy of the indictment found, or affidavit made, as provided by the Act of 1793, shall be produced and duly authenticated, as required by that Act, charging the person so demanded *of having committed a crime against the laws of the State from which he fled*, the Executive officer of the State upon whom the demand is made for the surrender of such fugitive, must be governed by the *record produced.* He has no authority to make any addition to it or to look behind the indictment or affidavit, and inquire whether by the laws of his own State, the facts charged therein would constitute a *criminal offence;* but it is made his *imperative duty*, under the supreme law of the land which he has sworn to support, to surrender up such fugitive to the authorities of the State whose laws have been violated. *Johnson* v. *Riley*, 97.

Where the Governor of Pennsylvania made a requisition upon the Governor of Georgia for the surrender of Robert J. Williams, as a fugitive from justice, founded upon an indictment found against him, and the Governor of Georgia issued a warrant for the arrest of Robert J. Williams, *alias* Spencer Riley, by virtue of which, Riley, a citizen of Georgia, was arrested: *Held*, in an action for false imprisonment, brought by Riley against Johnson, the agent of the State of Pennsylvania, who directed the arrest under the warrant, that the Governor of Georgia had no legal authority to insert the *alias* in the warrant issued by him. *Ibid.*

Distribution.—The rule of Common Law, *seisina facit stipitem, held* not to be in force in Georgia; and that any estate, real or personal, held by any title, legal or equitable, without actual seisin, will descend to the heirs of the owner. *Thompson and Wife* vs. *Sandford, adm'r, &c.* 238.

Equity.—Equity relieves against a mistake, as well as against fraud, in a deed or contract in writing, whether it be concerning land or any other thing, and there is no difference in this respect between that class of cases required by the Statute of Frauds to be in writing, and those not within the Statute; and parol evidence is admissible to prove the mistake, though it be denied in the answer. *Wall et al.* vs. *Arrington*, 88.

Principal and Agent.—A special power to an agent must be strictly pursued. *Moody, adm'r*, vs. *Threlkeld*, 55.

If A signs his name to a paper and delivers it to B to be filled up by him, for that purpose A constitutes B his general agent *quoad* the filling up the note; and A will be bound as to a *bona fide* holder, though B should not act in accordance with the private understanding between A and himself. *Ibid.*

Promissory Notes.—A note payable to bearer only, is a valid note. *Ibid.*

A note issued with a blank for the payee's name, may be filled up by any *bona fide* holder, with his own name as payee, and it is a good promissory note as to him, from its date. *Ibid.*

A note payable to the administrator of a particular estate, is a good promissory note. *Id certum est quod certum reddi potest. Ibid.*

Trover.—In this State, the action of trover is a substitute for the old action of detinue, the object of which is to recover the possession of the specific chattel sued for; and where such action was instituted for the recovery of the possession of a negro slave by the owner, proved to have been stolen from him in the State of Alabama: *Held*, that the action was maintainable without first prosecuting the thief to conviction or acquittal, more especially when the offence was committed in a foreign jurisdiction. *McBain* vs. *Smith*, 315.

Wills.—Where a testator, during his last illness, is unduly induced by fear, favor or affection, or any other cause, unduly exercised, in such a manner as to take away his free voluntary mind and capacity, to destroy his last will and testament duly executed by him, a copy of the same, upon due proof thereof, will be established. *Batton et al.* vs. *Watson*, 63.

Where a testator by his will, made the following devise and bequest: "I bequeath and will unto my dear wife, after the payment of all my just debts, all my estate, both real and personal, consisting in part as follows, (describing the property,) all which lands and negro slaves, I do will unto

my dear wife, during her natural life, and at her death to dispose of the same in any manner she may think proper. And I further will and bequeath unto my said wife, my entire stock of every description and kind whatsoever, together with all my household and kitchen furniture, and farming tools and implements, and all other species of property, rights and credits, which may not be herein enumerated, I do most willingly, and of my own free will, bequeath unto my dear wife, by her to be used and disposed of as she may think proper, to and for her own use and benefit forever. I do farther will that my intentions specified in this my last will and testament, be carried out and not prevented by any want of any technical form:" *Held*, that taking the whole will together, it was the intention of the testator to give an absolute estate in the property to his wife, restraining her power of alienation as to the land and negroes during her lifetime, and at her death to dispose of the same as she might think proper. *Hollingshed, adm'r*, vs. *Alston*, 277.

NOTICES OF NEW BOOKS.

A Practical Treatise on the Law of Covenants for Title. By William Henry Rawle. Second edition, revised and enlarged. Philadelphia: T. & J. W. Johnson, Law Publishers and Booksellers. 1854; pp. 771.

Upon the publication of Mr. Rawle's first edition, the Editors of the American Law Journal, Vol. XI, p. 431, took occasion to speak of its value in terms of the highest commendation. It was then a book wholly unknown, and its author, out of Philadelphia, no less unknown as the sound, thorough and practical lawyer that his labors have shown him to be. The Editors of the Journal then stated that an examination of the volume had satisfied them that it was one of the very best books that had been laid on their table for a long time; that the arrangement was good, the style lucid, the matter elaborated and carefully sifted, the authorities fully collected, analyzed and duly set forth. The profession have affirmed the judgment thus passed, with unusual unanimity, a new edition being now, in less than two years, called for and presented.

The new edition is, we think, in every respect superior to the old. The learned author tells us that he has bestowed much pains on it by carefully revising, rewriting, analyzing and fully illustrating many parts by numerous